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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Perry et al.

Appln. No.: 09/746,611

Filed: December 21, 2000

For: **COMPUTERIZED METHOD FOR
EVALUATING AND SHAPING A
BUSINESS PROPOSAL**

Examiner: David Robertson

Art Unit: 3623

Conf. No.: 2184

Attorney Docket No: 10022-24

 Mail Stop Appeal Brief - Patents
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Reply Brief; and
☒ Return Receipt Postcard.

Fee calculation:

- ☐ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 CFR § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 CFR § 1.17(____).
☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
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Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X105=			x \$210=	
First Presentation of Multiple Dep. Claim					+\$185=			+ \$370=	
					Total	\$		Total	\$

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- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925. A copy of this Transmittal is enclosed for this purpose.

Respectfully submitted,

John R. Lagowski (Reg. No. 41,922)

January 17, 2008
 Date

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PATENT
CASE NO. 10022/24

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REPLY BRIEF

This Reply is in response to the Updated Examiner's Answer mailed on November 20, 2007. This Reply is being filed within the two-month period for reply.

I. REPLY SUMMARY

In this Reply, Appellants assert the following:

- Belcsak et al. does not disclose or suggest the selecting acts of claims 1, 18, and 32 of the present application.
- Belcsak et al. does not disclose or suggest selecting among a group of business structures, as recited in claims 1, 18, and 32 of the present application.
- The specification of Appellants' application does not equate an alliance, an acquisition, an equity venture, a partnership, and/or a venture to a "financial structure" as defined in Belcsak et al., as asserted by the Examiner.

- Belcsak et al. does not disclose or suggest the ranking act of claim 1 or calculating acts of claims 18 and 32 of the present application.

II. ARGUMENTS

1) Belcsak et al. does not disclose or suggest the selecting acts of claims 1, 18, and 32.

Claim 1 of the present application recites "selecting at least two alternative structures between a purchaser and a provider . . ." Belcsak et al. discloses a system and method that optimizes the terms of a single instrument. To "optimize" is to make as perfect, effective, or functional as possible (Webster's Online). To "select" is to choose from a number or group (Webster's Online). Although the Examiner cites to sections of Belcsak et al. as disclosing or suggesting the selecting act (at page 4 of the Updated Examiner's Answer), the cited sections do not disclose or suggest the selecting act. The cited sections discuss the specific terms of a single instrument (for example the buy-out option terms of the lease discussed at col. 7, lines 29-35). In addition, Belcsak et al. does not disclose or suggest selecting or choosing from among a number or group of financial instruments or financial structures. Belcsak et al. discloses modeling a single financial scenario, determining if it is acceptable, and possibly modifying the financial scenario to optimize it. Thus, Belcsak et al. does not disclose or suggest the selecting act of claim 1.

Independent claims 18 and 32 also recite selecting acts that are not disclosed or suggested by Belcsak et al. Claim 18 recites that "structures are selected from the group consisting of . . ." and claim 32 recites "a plurality of alternative structures . . . selected from the group consisting of . . ." Thus, Belcsak et al. does not disclose or suggest the selecting acts of claims 18 and 32.

2) Belcsak et al. does not disclose or suggest selecting among a group of business structures, as recited in claims 1, 18, and 32.

The Examiner states that nothing "in the claims at issue limits 'structures' to 'business structures' in terms which preclude financial structures from meeting the metes and bounds of 'structures' as presently claimed." Appellants respectfully disagree.

The claims of the present application explicitly define “structure” by way of a group listing that includes only business type structures. For example, claims 1, 18, and 32 each recite selecting from a “group consisting of an alliance, an acquisition, an equity venture, a partnership, and a venture.”

The term “financial structure” is used often in the Updated Examiner’s Answer when describing Belcsak et al. However, Belcsak et al., while discussing financial instruments (namely the terms of either a loan (the loan scenario) or a lease (the lease scenario)) at length, mentions the term “financial structure” in only two paragraphs (col. 1, lines 42-65, and col. 9, lines 31-67). In neither instance does the term “financial structure” refer to anything close to an alliance, an acquisition, an equity venture, a partnership, or a venture. For example, in the paragraph at col. 1, lines 42-65, Belcsak et al. discusses how the invention can be used to determine optimal terms for a particular transaction under consideration. And in the paragraph at col. 9, lines 31-67, Belcsak et al. discusses modeling payments between parties. Appellants respectfully assert that the term “financial structure” as used in Belcsak et al. refers only to the structure of transactions and payments between parties. “Financial structure” does not relate to, refer to, or suggest an alliance, an acquisition, an equity venture, a partnership, or a venture.

Belcsak et al. does not disclose or suggest selecting any of the structures recited in claims 1, 18, and 32.

3) The specification of Appellants’ application does not equate an alliance, an acquisition, an equity venture, a partnership, and/or a venture to a “financial structure” as defined in Belcsak et al.

The Examiner cites references to “structure(s)” in the Appellants’ application and concludes that “under a broadest reasonable interpretation of ‘structure’ in the claims given its definitions and term’s use in the specification and claims, Belcsak et al. fairly teaches proposals selected from the group consisting of an alliance, an acquisition, an equity venture, a partnership, and a venture.” Appellants respectfully disagree.

As demonstrated above, the term “financial structure” in Belcsak et al. refers to the structure of a financial transaction or payment. None of the Examiner’s citations to the term “structure” in Appellants’ application support the position that “structures” refers to a

financial structure as defined in Belcsak et al. In fact, some of the Examiner's citations clearly demonstrate that "structures" refers to business structures. The Examiner cites Appellants' specification as follows:

"... a computerized process is used to structure the proposal" (page 1 at line 9). This use of the term structure (as a verb) is clearly not a reference to a financial structure.

"... the information, especially financial information, is input into a computer, along with one or more proposed structures for the proposal" (page 3 at line 23). This use clearly distinguishes "financial information" from proposed "structures."

"Structures for the proposal may include any form of business entity or enterprise" (page 2 at line 28). This use is clearly not a reference to a financial structure.

"Depending on the structure of the business . . ." (page 18 at line 7). This is clearly not a reference to a financial structure.

"... the deals or proposals may be examined from several viewpoints, or structures . . ." (page 3 at line 12). This is clearly not a reference to a financial structure.

4) Belcsak et al. does not teach or suggest "an optimization engine that produces a numerical dollar *ranking* of the 'bottom line' profitability of the financial structure as proposed" as asserted by the Examiner.

Claim 1 recites "ranking the at least two alternative structures . . ." The Examiner asserts that Belcsak et al. "produces a numerical dollar *ranking* of the 'bottom line' profitability of the financial structure as proposed" (italics and use of quotation mark by the Examiner at page 13).

Appellants note that no form of the word "rank" is used in Belcsak et al. and, as the Updated Examiner's Answer states at page 5, Belcsak et al. does not disclose the ranking step. In addition, contrary to the Examiner's proclamation, Belcsak et al. does not disclose (1) producing a numerical dollar ranking of the profitability of the financial structure as proposed or (2) a user performing a ranking of outcomes.

In Belcsak et al., a modeled financial scenario is evaluated against itself to determine if it is satisfactory or meets the criteria or constraints defined by a user (see, for example, Belcsak et al., col. 8, lines 2-50). If the financial scenario does not meet the user's criteria, it may be modified and re-evaluated. In other words, in Belcsak et al.,

optimization is not achieved through any type of ranking or comparison of successive "financial structures" as asserted by the Examiner. Rather, optimization is achieved by modifying and evaluating in light of a user's constraints or goals. Thus, Belcsak et al. does not disclose the ranking act of claim 1. As noted in the Appeal Brief, claims 18 and 32 recite acts ("calculating . . .") that correspond to the ranking act of claim 1.

III. CONCLUSION

For the reasons stated above, independent claims 1, 18, and 32 are believed allowable. The dependent claims are believed allowable for at least the same reasons.

Allowance of the pending claims in light of the arguments above and in the Appeal Brief is respectfully requested.

Respectfully submitted,



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